

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1360 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO
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SHREE UDYOG

Versus

GOPAL ROLLING MILL

Appearance:

MR NAVIN K PAHWA for Petitioners

MR RD RAVAL for Respondent No. 1

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 09/03/2000

ORAL JUDGEMENT

Rule.

This Civil Revision Application has been filed by
the petitioner under Section 115 of the Code of Civil

Procedure, 1908 (for short, 'the Code') challenging the order dated 17.8.1999 recorded by the Civil Judge (SD), Surendranagar below Exh.101 in Special Civil Suit No.98/90.

2. It appears that the deposition of the plaintiff was recorded at Exh.22 before the trial court and the plaintiff was cross-examined at length on behalf of the defendants. The cross-examination did not end on one particular day, but it appears to have gone on and on, on various dates and on frequent intervals as stated by the trial Judge in the order in dispute. Thereafter the present applicants submitted the aforesaid application for production of certain documents and for recall of the plaintiffs for further cross-examination. It appears that the documents are related to M/s.Bhavna Metals whereas M/s.Bhavna Metals is not a party to the suit. M/s.Gopal Rolling Mill is really a party to the present litigation. The present applicants have not explained as to how the documents related to M/s.Bhavna Metals will stand related to the subject matter in dispute wherein they are not a party but M/s.Gopal Rolling Mills is a party.

3. An attempt was made by the learned Advocate for the applicant to show that Mr. Natvarlal Khimchand Kansara is the proprietor of Gopal Rolling Mills and also the partner of M/s.Bhavna Metals. It is, however, not explained as to how that fact will be relevant and material for the purpose of deciding the subject matter in dispute. An attempt was made to show that Mr Natvarlal Kansara was in the habit of entering into contracts in different names and that is why the aforesaid documents are necessary and relevant. However, instances are not quoted and there is no reference to the said allegations in the application before the trial court. Even in this Revision Application, the said fact is not disclosed and it is not very much clear as to how those documents are relevant for the purpose of decision in the matter before the trial court. It appears that the trial court has also observed that ample opportunities were granted to the present applicant for cross examination of the opponent plaintiffs in connection with the said documents. Under the circumstances, the trial court cannot be said to be unjustified in rejecting the said application of the present applicant. The said order does not appear to be illegal on the face of it. The matter has been prolonged sufficiently.

4. The applicants have given reasons for the delay

in submission of this application in question before the trial court. It has been contended that father of the defendant No.2 died first and thereafter his mother also died, but the dates are not disclosed. Moreover, even if the parents died, the suit is pending since years and it is not the case of the defendant-applicants that they were not attending to their business during last so many years. Therefore, it cannot be said that the documents could be collected and could be sent to the learned Advocate who appears on behalf of the applicants before the trial court. Sufficient time and opportunity was there at the disposal of the applicants for doing so. They have not availed the opportunity available to them. Therefore, it appears that the trial court cannot be said to have committed illegality or jurisdictional error in dismissing the application. Consequently the present application in Revision is without any merit and deserves to be dismissed.

5. In view of the aforesaid, this Revision Application is ordered to be dismissed. Rule discharged. Interim relief stands vacated. No order as to costs.

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msp.